

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke
Probation Against:

Case No. 2001-189

ROBERT N. BEYRER, R.N.
10333 Lake Ridge Court
Spring Valley, California 91977-5426

Registered Nurse License No. 416207

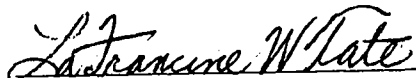
Respondent.

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on September 15, 2008.

IT IS SO ORDERED this September 15, 2008.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

EDMUND G. BROWN JR., Attorney General
of the State of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General
SHERRY L. LEDAKIS, State Bar No. 131767
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Attorneys for Complainant

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation/Petition to
Revoke Probation Against:

ROBERT N. BEYRER, R.N.
10333 Lake Ridge Court
Spring Valley, California 91977-5426
Registered Nurse No. 416207

Respondent.

Case No. 2001-189

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
proceeding that the following matters are true:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
the Board of Registered Nursing. She brought this action solely in her official capacity and is
represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
by Sherry L. Ledakis, Deputy Attorney General.

2. Robert N. Beyrer, R.N. (Respondent) is representing himself in this
proceeding and has chosen not to exercise his right to be represented by counsel.

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3. On or about August 31, 1987, the Board of Registered Nursing issued Registered Nurse License No. 416207 to Robert N. Beyrer, R.N. Said license will expire on April 30, 2009, unless renewed.

JURISDICTION

4. Accusation/Petition to Revoke Probation No. 2001-189 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation/Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on October 27, 2007. Respondent timely filed his Notice of Defense contesting the Accusation/Petition to Revoke Probation. A copy of Accusation/Petition to Revoke Probation No. 2001-189 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation/Petition to Revoke Probation No. 2001-189. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation/Petition to Revoke Probation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation/Petition to Revoke Probation No. 2001-189, agrees that cause exists for discipline

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and hereby surrenders his Registered Nurse License No. 416207 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Registered Nurse License without further process.

RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Registered Nursing or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the (Board) may, without further notice or formal proceeding, issue and enter the following Order:

/ / /

ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 416207 issued to Respondent Robert N. Beyrer, R.N. is surrendered and accepted by the Board of Registered Nursing.

14. The surrender of Respondent's Registered Nurse License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

15. Respondent shall lose all rights and privileges as a Registered Nurse in California as of the effective date of the Board's Decision and Order.

16. Respondent shall cause to be delivered to the Board both his wall and pocket license certificate on or before the effective date of the Decision and Order.

17. Respondent fully understands and agrees that if he ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation/Petition to Revoke Probation No. 2001-189 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

18. Upon reinstatement of the license, Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$3,515.50. Respondent shall be permitted to pay these costs in a payment plan approved by the Board.

19. Should Respondent ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation/Petition to Revoke Probation Case No. 2001-189, shall be deemed to be true, correct, and admitted by Respondent

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1 for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict
2 licensure.

3 20. Respondent shall not apply for licensure or petition for reinstatement for
4 two (2) years from the effective date of the Board of Registered Nursing's Decision and Order.

5 ACCEPTANCE

6 I have carefully read the Stipulated Surrender of License and Order. I understand
7 the stipulation and the effect it will have on my Registered Nurse License No. 416207. I enter
8 into this Stipulated Surrender of License and Order voluntarily, knowingly and intelligently, and
9 agree to be bound by the Decision and Order of the Board of Registered Nursing.

10 DATED: June 05, 2008.

11 
12 Robert N. Beyrer, R.N.
13 Respondent

14
15 ENDORSEMENT

16 The foregoing Stipulated Surrender of License and Order is hereby respectfully
17 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
18 Affairs.

19 DATED: 6/12/08

20 EDMUND G. BROWN JR., Attorney General
21 of the State of California

22 LINDA K. SCHNEIDER
23 Supervising Deputy Attorney General

24 
25 SHERRY L. LEDAKIS
26 Deputy Attorney General

27 Attorneys for Complainant
28

Exhibit A

Accusation/Petition to Revoke Probation No. 2001-189

1 EDMUND G. BROWN JR.
Attorney General of the State of California
2 LINDA K. SCHNEIDER,
Supervising Deputy Attorney General
3 SHERRY L. LEDAKIS, State Bar No. 131767
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Facsimile: (619) 645-2061
8

9 Attorneys for Complainant

10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation/Petition to
Revoke Probation Against:

14 ROBERT N. BEYRER, R.N.
15 10333 Lake Ridge Court
Spring Valley, California 91977-5426

16 Registered Nurse License No. 416207

17 Respondent.
18

Case No.

**ACCUSATION AND PETITION
TO REVOKE PROBATION**

19 Complainant alleges:

20 PARTIES

21 1. Ruth Ann Terry, M.P.H, R.N., Complainant, brings this Accusation and
22 Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Board
23 of Registered Nursing.

24 2. On or about August 31, 1987, the Board issued Registered Nurse License
25 Number 416207 to Robert N. Beyrer, R.N., Respondent. Said license will expire on April 30,
26 2009, unless renewed.

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1 3. On January 5, 2001, the Board filed Accusation No. 2001-189 against
2 respondent. A true and correct copy of that Accusation is attached hereto as Exhibit A, and is
3 hereby incorporated by reference.

4 4. On or about October 27, 2001, a decision in Accusation Case No. 2001-
5 189 issued from the Board in which respondent stipulated to the surrender of his registered nurse
6 license. A true and correct copy of Decision No. 2001-189, is attached hereto as Exhibit B, and
7 is hereby incorporated by reference.

8 **2005 - Respondent Petitioned for Reinstatement of His Registered Nurse License.**

9 5. On February 17, 2005, respondent appeared before a quorum of the Board
10 and petitioned the Board for reinstatement of his nursing license. He presented significant
11 evidence of rehabilitation and expressed great remorse.

12 6. Effective May 28, 2005, and based upon respondent's evidence of
13 rehabilitation, the Board reinstated his nursing license, immediately revoked the license and
14 stayed the revocation for three (3) years on several terms and conditions. A true and correct copy
15 of the Decision Reinstating License is attached hereto as Exhibit C.

16 7. On April 11, 2006, respondent met with his probation monitor for the
17 Board and discussed the requirements for complying with his probationary terms.

18 8. On February 14, 2007, a Notice of Probation Violation was sent to
19 respondent

20 JURISDICTION RE: THE ACCUSATION

21 9. This Accusation is brought before the Board of Registered Nursing, under
22 the authority of the following laws. All section references are to the Business and Professions
23 Code unless otherwise indicated.

24 10. Section 2750 of the Business and Professions Code ("Code") provides, in
25 pertinent part, that the Board may discipline any licensee, including a licensee holding a
26 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
27 2750) of the Nursing Practice Act.

28 ///

1 11. Section 2764 of the Code provides, in pertinent part, that the expiration of
2 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
3 against the licensee or to render a decision imposing discipline on the license.

4 12. Section 2811(b) of the Code provides, in pertinent part, that the Board may
5 renew an expired license at any time within eight years after the expiration.

6 13. Section 490 of the Code states:

7 A board may suspend or revoke a license on the ground that the licensee
8 has been convicted of a crime, if the crime is substantially related to the
9 qualifications, functions, or duties of the business or profession for which the
10 license was issued. A conviction within the meaning of this section means a plea
11 or verdict of guilty or a conviction following a plea of nolo contendere. Any
12 action which a board is permitted to take following the establishment of a
13 conviction may be taken when the time for appeal has elapsed, or the judgment of
14 conviction has been affirmed on appeal, or when an order granting probation is
15 made suspending the imposition of sentence, irrespective of a subsequent order
16 under the provisions of Section 1203.4 of the Penal Code.

17 14. Section 493 of the Code states:

18 Notwithstanding any other provision of law, in a proceeding conducted by
19 a board within the department pursuant to law to deny an application for a license
20 or to suspend or revoke a license or otherwise take disciplinary action against a
21 person who holds a license, upon the ground that the applicant or the licensee has
22 been convicted of a crime substantially related to the qualifications, functions, and
23 duties of the licensee in question, the record of conviction of the crime shall be
24 conclusive evidence of the fact that the conviction occurred, but only of that fact,
25 and the board may inquire into the circumstances surrounding the commission of
26 the crime in order to fix the degree of discipline or to determine if the conviction
27 is substantially related to the qualifications, functions, and duties of the licensee in
28 question. As used in this section, 'license' includes 'certificate,' 'permit,'
'authority,' and 'registration.'

 15. Section 2761 of the Code states:

 The board may take disciplinary action against a certified or
licensed nurse or deny an application for a certificate or license for any of the
following:

 (a) Unprofessional conduct, which includes, but is not limited to,
the following:

 (f) Conviction of a felony or of any offense substantially related to
the qualifications, functions, and duties of a registered nurse, in which event the
record of the conviction shall be conclusive evidence thereof.

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16. Section 2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

....

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

....

17. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

....

18. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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2401
LEGISLATIVE COUNCIL
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1 **FIRST CAUSE FOR DISCIPLINE**

2 (November 1, 2006 Criminal Conviction - Resisting Arrest and
3 Driving With a Blood Alcohol Level Above 0.08%)

4 19. Grounds exist to revoke respondent's license under Code sections 490,
5 493, 2761(f), and 2762(c) for a criminal conviction that is substantially related to his
6 qualifications as a registered nurse. On November 1, 2006, in the superior Court for the County
7 of San Diego, East County Division, in a case entitled *People v. Robert Beyrer* (Sup. Ct., San
8 Diego County, 2006, Case No. C263198), respondent pled guilty to a violation of Penal Code
9 section 69 as a misdemeanor, Resisting an Executive Officer, and Penal Code section 23152(b)
10 Driving With a Blood Alcohol Level Above 0.08%. The circumstances of the conviction are as
11 follows:

12 20. On July 9, 2006, at 7:20 p.m., respondent was picked up by police radar
13 driving 88 miles per hour on the freeway. When the police officer stopped respondent for
14 speeding he observed a bottle of Vodka on the front passenger floorboard. The officer also
15 smelled alcohol emanating from respondent's vehicle. The officer asked respondent to exit the
16 vehicle, which he did.

17 21. Respondent's eyes were watery. Respondent was confrontational and very
18 agitated. The officer could smell alcohol on respondent's breath and person. When the officer
19 attempted to administer field sobriety tests, respondent became verbally abusive and took an
20 aggressive stance towards the officer. Respondent refused to perform any field sobriety tests and
21 began walking towards his vehicle to leave the scene. Respondent ignored the officer's orders to
22 stop. As the officer attempted to physically stop respondent from leaving, respondent became
23 combative. The officer and respondent fell to the ground with the officer struggling to get
24 handcuffs on respondent.

25 22. An off-duty police officer observed the two struggling on the ground and
26 stopped to assist. A third person also observed the struggle and also stopped to assist the
27 officers. With the help of the two additional persons, respondent was finally cuffed and placed in
28 the back of the patrol car.

1 23. Both the officer and respondent sustained minor injuries from the struggle.

2 24. At the California Highway Patrol office, respondent was very abrasive,
3 vulgar, confrontational and uncooperative. He agreed to take a breath test, but as the test was
4 being administered respondent burped twice invalidating the results of the test. With the
5 assistance of other officers, respondent was placed on his stomach on the floor and blood was
6 obtained for testing.

7 25. On July 26, 2006 a misdemeanor complaint was filed against respondent
8 charging him with Resisting an Executive Officer, (Penal Code section 69), Driving Under the
9 Influence of Alcohol/Drugs (Vehicle Code section 23152(a)), Driving With a Blood Alcohol
10 Level Above 0.08% (Vehicle Code section 23152(b)), and Resisting an Officer, (Penal code
11 section 148(a)(1)).

12 26. On November 1, 2006, respondent plead guilty to Resisting an Executive
13 Officer, and to Driving With a Blood Alcohol Level Above 0.08%.

14 27. Respondent was sentenced to five (5) years summary probation, on
15 condition that he pay fines, render volunteer service, and complete of the First Offender program.

16 **SECOND CAUSE FOR DISCIPLINE**

17 (Unlawful Consumption of Alcohol)

18 28. Grounds exist to revoke respondent's license under Code section 2762 in
19 that he used alcoholic beverages to an extent or in a manner dangerous or injurious to himself or
20 any other person, or the public as set forth above in paragraphs 19 through and including
21 paragraph 27.

22 **JURISDICTION RE: PETITION TO REVOKE PROBATION**

23 29. The decision of May 28, 2005, which reinstated respondent's license
24 provides as follows:

25 The petition of Robert N. Beyrer for reinstatement as a registered
26 nurse is granted. A license shall be issued to Petitioner; however said license
27 shall immediately be revoked, the revocation stayed, and Petitioner placed on
28 probation for three years pursuant to the following terms and conditions:

....

1 13. VIOLATION OF PROBATION If Petitioner violates the
2 conditions of his probation, the Board after giving Petitioner notice and an
3 opportunity to be heard, may set aside the stay order and impose the stayed
4 discipline (revocation/suspension) of Petitioner's license.

5 If, during the period of probation, an accusation or petition to
6 revoke probation has been filed against Petitioner's license or the Attorney
7 General's Office has been requested to prepare an accusation or petition to revoke
8 probation against Petitioner's license, the probationary period shall automatically
9 be extended and shall not expire until the accusation or petition has been acted
10 upon by the Board.

11 CAUSE TO REVOKE PROBATION

12 30. Grounds exist to revoke respondent's probation and impose the order of
13 revocation of Registered Nurse License No. 416207, in that, as set forth below, respondent has
14 failed to comply with the following terms of probation:

15 **A. Probation Term: 3 - Obey All Laws** - Petitioner shall obey all federal, state
16 and local laws. A full and detailed account of any and all violations of law shall be reported by
17 Petitioner to the Board in writing within seventy-two (72) hours of occurrence. To permit
18 monitoring of compliance with this condition, Petitioner shall submit completed fingerprint
19 forms and fingerprint fees within 45 days of the effective date of the decision, unless previously
20 submitted as part of the licensure application process.

21 **Probation Violation of Term No. 3** - Respondent has violated this term of
22 probation by driving with a blood alcohol level above 0.08% in violation of Vehicle Code section
23 23152(b), and for resisting arrest in violation of Penal Code section 69. Respondent failed to
24 notify the Board within seventy-two (72) hours of his arrest on July 9, 2006.

25 **B. Probation Term No. 4 - Comply With the Board's Probation Program.**
26 Petitioner shall fully comply with the conditions of the Probation Program established by the
27 Board and cooperate with representatives of the Board in its monitoring and investigation of
28 Petitioner's compliance with the Board's Probation Program. Petitioner shall inform the Board
in writing within no more than 15 days of any address change and shall at all times maintain an
active, current license status with the Board, including during any period of suspension.

Probation Violation of Term No. 4 - Respondent has failed to comply with

1 Probation Term No. 4 by failing to provide a timely relapse prevention plan, by abstaining from
2 alcohol, by failing to notify his probation monitor of his July 2006 arrest, and by failing to
3 submit to random drug/alcohol testing.

4 **C. Probation Term No. 17 - Abstain From Use of Psychotropic (Mood-**
5 **Altering Drugs.** Respondent shall completely abstain from the possession, injection or
6 consumption by any route of all psychotropic (mood-altering) drugs, including alcohol, except
7 when the same are ordered by a health care professional legally authorized to do so as part of
8 documented medical treatment. Respondent shall have sent to the Board, in writing and within
9 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
10 dosage, the date the medication was prescribed, the respondent's prognosis, the date the
11 medication will no longer be required, and the effect on the recovery plan, if appropriate.

12 Respondent shall identify for the board a single physician, nurse practitioner or
13 physician assistant who shall be aware of respondent's history of substance abuse and will
14 coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled
15 substances or mood-altering drugs. The coordinator physician, nurse practitioner or physician
16 assistant shall report to the Board on a quarterly basis respondent's compliance with this
17 condition. If any substances considered addictive have been prescribed, the report shall identify a
18 program for the time limited use of any such substances.

19 The Board may require the single coordinating physician, nurse practitioner, or
20 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
21 addictive medicine.

22 **Probation Violation of Term No. 17 - Respondent failed to abstain from**
23 **ingesting alcohol.**

24 **D. Probation Term No. 18 -** Respondent, at his expense, shall participate in a
25 random, biological fluid testing or a drug screening program which the Board approves. The
26 length of time and frequency will be subject to approval by the Board. The respondent is
27 responsible for keeping the Board informed of respondent's current telephone number at all
28 times. Respondent shall also ensure that messages may be left at the telephone number when he

1 is not available and ensure that reports are submitted directly by the testing agency to the Board,
2 as directed. Any confirmed positive finding shall be reported immediately to the Board by the
3 program and the respondent shall be considered in violation of probation.

4 In addition, respondent, at any time during the period of probation, shall fully
5 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
6 tests and samples as the Board or its representatives may require for the detection of alcohol,
7 narcotics, hypnotics, dangerous drugs, or other controlled substances.

8 If respondent has a positive drug screen for any substance not legally authorized
9 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
10 Board files a petition to revoke probation or an accusation, the Board may suspend respondent
11 from practice pending the final decision on the petition to revoke probation or the accusation.
12 This period of suspension will not apply to the reduction of this probationary time period.

13 If respondent fails to participate in a random, biological fluid testing or drug
14 screening program within the specified time frame, the respondent shall immediately cease
15 practice and shall not resume practice until notified by the Board. After taking into account
16 documented evidence of mitigation, if the Board files a petition to revoke probation or an
17 accusation, the Board may suspend respondent from practice pending the final decision on the
18 petition to revoke probation or the accusation. This period of suspension will not apply to the
19 reduction of this probationary time period.


20 **Probation Violation of Term No. 18** - Respondent failed to comply with
21 biological fluid testing on several occasions or had positive drug/alcohol results as follows:

<u>Call Date</u>	<u>Results</u>
June 23, 2005	Positive for alcohol
August 9, 2005	Failed to comply
September 1, 2005	Failed to comply
September 29, 2005	Positive for alcohol
October 20, 2005	Positive for alcohol
January 5, 2006	Failed to comply

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3. Taking such other and further action as deemed necessary and proper.

DATED: 10/2/07


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
State of California
Complainant

SD2007801556

2007 OCT 11 PM 1:11
RECEIVED

EXHIBIT A

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UECIS

1 BILL LOCKYER, Attorney General
of the State of California
2 M. GAYLE ASKREN, [State Bar No. 52189]
Deputy Attorney General
3 California Department of Justice
110 West A Street, Suite 1100
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5 Post Office Box 85266
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7 Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the **Accusation** Against:

Case No. *2001-189*

13 **ROBERT NORVAL BEYRER, R.N.**
10333 Lake Ridge Court
14 Spring Valley, California 91977

A C C U S A T I O N

15 Registered Nurse License No. 416207

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
22 Department of Consumer Affairs.

23 2. On or about August 31, 1987, the Board of Registered Nursing issued
24 Registered Nurse License Number 416207 to Robert Norval Beyrer, R.N. ("Respondent"). This
25 license will expire on April 30, 2001, unless renewed.

26
27 **JURISDICTION**

28 3. This Accusation is brought before the Board of Registered Nursing

1 ("Board"), under the authority of the following sections of the Business and Professions Code
2 ("Code").

3 4. Section 2761 of the Code states:

4 The Board may take disciplinary action against a certified or licensed
5 nurse or deny an application for a certificate or license for any of the following:

6 (a) Unprofessional conduct, which includes, but is not limited to, the
7 following:

8

9 (d) Violating or attempting to violate, directly or indirectly, or assisting in
10 or abetting the violating of, or conspiring to violate any provision or term of this
11 chapter or regulations adopted pursuant to it.

12

13 (f) Conviction of a felony or of any offense substantially related to the
14 qualifications, functions, and duties of a registered nurse, in which event the
15 record of the conviction shall be conclusive evidence thereof.

16 5. Section 2762 of the Code states:

17 In addition to other acts constituting unprofessional conduct within the
18 meaning of this chapter it is unprofessional conduct for a person licensed under
19 this chapter to do any of the following:

20 (a) Obtain or possess in violation of law, or prescribe, or except as
21 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
22 himself or herself, or furnish or administer to another, any controlled substance as
23 defined in Division 10 (commencing with Section 11000) of the Health and
24 Safety Code or any dangerous drug or dangerous device as defined in Section
25 4022.

26 (b) Use any controlled substance as defined in Division 10 (commencing
27 with Section 11000) of the Health and Safety Code, or any dangerous drug or
28 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent
or in a manner dangerous or injurious to himself or herself, any other person, or
the public or to the extent that such use impairs his or her ability to conduct with
safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription,
consumption, or self-administration of any of the substances described in
subdivisions (a) and (b) of this section, or the possession of, or falsification of a
record pertaining to, the substances described in subdivision (a) of this section, in
which event the record of conviction is conclusive evidence thereof.

26
27 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
28 unintelligible entries in any hospital, patient, or other record pertaining to the
substances described in subdivision (a) of this section.

Respondent was counseled to write all verbal orders in the medical record of each patient.

(2) On or about February 16, 1997, again working the evening shift, Respondent indicated in the medical records that he had medicated patient P. with Demerol 50 mg at 1830 hours. The physician's medication order existing at the time was Demerol q4 PRN (every four hours as needed). Respondent next indicated in the record that he medicated the patient with Demerol 50 mg at 2100 hours, which was a period of only 2½ hours later. Respondent called the physician, Dr. L., and told her of the pain the patient continued to experience. Respondent then recorded a verbal order for Demerol 50 mg "now" *and* PRN. Although the physician gave the "now" order, she did not give a PRN order for Demerol. Respondent failed to write, as part of the verbal order, the required time limitations such as "q4 hours PRN," and failed to address such requirement with the physician. During the three-hour period from 2230 until 0130 hours, Respondent charted administration of Demerol 150 mg to patient P. Respondent failed to contact the physician again regarding a level of patient pain that would require this much narcotic medication. During the course of the evening, Respondent signed out seven doses of Demerol for patient P. The medication administration record shows only six such doses, as do the nursing notes. For these failures, and others not directly relevant hereto, Respondent was disciplined at Alvarado by being placed on "Decision Making Leave."

B. Respondent worked the evening shift at Alvarado during May of 1997. On or about May 27, 1997, Respondent was responsible for managing a patient, John C., who was in pain and for whom Demerol had been prescribed by Dr. R. On May 27, 1997, Respondent withdrew a total of 675 mg of Demerol in eight doses for ostensible administration to the patient. Respondent administered approximately one-half, or four of the doses, to the patient and the remaining four doses to himself during the course of that evening.

1 C. During the evening of May 27, 1997, Respondent falsely and with
2 fraudulent intent altered the physician's order to indicate authorization for 75 mg of
3 Demerol "now," instead of 50 mg "now" as the physician had ordered. On a second
4 occasion during that evening, Respondent falsely and with fraudulent intent altered the
5 physician's order to indicate authorization for 50 to 100 mg of Demerol every 2 to 4
6 hours for pain, instead of 50 to 100 mg of Demerol every 3 to 4 hours for pain. The
7 intent of Respondent in making these false entries was to make available to himself
8 additional quantities of Demerol.

9 D. During the evening of May 27, 1997, Respondent telephoned Dr.
10 R. on several occasions and insisted upon giving additional narcotic (Demerol) doses to
11 patient John C. To the physician it appeared Respondent sought to give Demerol to the
12 patient about every 1½ hours, a frequency which was in excess of the physician's order.

13 E. On or about May 28, 1997, Respondent was again responsible for
14 managing John C. About 45 minutes into his shift of that evening, Respondent withdrew
15 Demerol 50 mg for administration to this patient. Respondent later withdrew two
16 additional doses of Demerol for administration to this patient (75 mg at 1930 hours and
17 75 mg at 2010 hours). During the course of the evening, Respondent charted the
18 administration of only one of the three doses he had withdrawn, namely at 1930 hours.
19 After obtaining one of the doses, Respondent entered the employee washroom, and stayed
20 there for a prolonged period before leaving. When he emerged, Respondent's face was
21 flushed and his eyes appeared to another staff member to be "glazed." Respondent
22 staggered when walking down the hallway. When confronted by a fellow employee,
23 Respondent denied having taken any medication and refused to take the drug screening
24 test which was requested by his supervisor. After refusing two more times to take the
25 drug test, Respondent was relieved of further duty that evening.

26 F. On or about June 3, 1997, Respondent was notified of his
27 termination from employment by Alvarado by reason of excessive administration of
28

1 Demerol to a patient and tampering with (amending without authority) an order in a
2 medical record.

3 G. While working at Alvarado, Respondent unlawfully obtained
4 Demerol for his personal use by, among other means, siphoning the contents of Demerol
5 syringes, diluting the contents with water, and replacing the syringes; and falsely
6 representing he had wasted Demerol in order to obtain the signature of a fellow worker to
7 cosign the wastage.

8 Second Series of Incidents Known to the Board at the Time of Filing of This Accusation

9 H. On or about August 5, 1997, Respondent began employment as a
10 registered nurse through Berry Medical Staffing (Berry), a nurse registry located in San
11 Diego, California. That arrangement continued until about October 21, 1997, when Berry
12 informed Respondent it had to discontinue his work assignments due to his alleged
13 Demerol diversion and personal usage of the narcotic while employed.

14 I. Once during September of 1997, and once again in October of
15 1997, Respondent was placed by Berry to work the evening shift at Scripps Hospitals.
16 On the first occasion, in late September of 1997, Respondent worked at Scripps Green
17 Hospital, La Jolla, California, in the Med-Surg Unit. On his shift, Respondent left
18 antibiotic medication in a cup near the bedside of one patient. Respondent also hung an
19 IV antibiotic drip, but failed to activate the valve. In addition, Respondent ostensibly
20 administered Demerol to a patient three times during the shift, under circumstances
21 wherein the patient was already receiving an IV morphine drip, had not requested
22 Demerol, and was not complaining of pain. When asked by his superior to explain the
23 administration of Demerol, Respondent dishonestly stated the patient needed increased
24 analgesia due to increased pain when he would turn her. Respondent had diverted all
25 such Demerol to his own possession and for his own unlawful use.

26 J. A second incident occurred while Respondent was employed by
27 Berry and placed at Scripps. During the evening shift of October 12, 1997, Respondent
28 was employed as a clinical staff nurse in the Cardiac Med-Surg Unit at Scripps Memorial

1 Hospital, La Jolla, California. In the course of his shift, Respondent made three separate
2 telephone calls to Dr. D.B., and each time Respondent falsely stated to the physician that
3 his patient was complaining of pain and that the patient needed IV narcotics for relief.
4 The physician was aware the patient had not received IV narcotics since admission.
5 Instead of prescribing Demerol, the physician authorized a medication order for Darvocet
6 N, 50 mg after the first call, for Darvocet N, 50 mg after the second, and for ibuprofen
7 after the third. Nevertheless, Respondent dishonestly and unlawfully wrote three separate
8 orders for Demerol 50 mg for administration to the patient, took the orders to the hospital
9 pharmacy for filling, obtained the three doses of Demerol, and administered the drugs to
10 himself. Upon review of the incident, hospital authorities discovered there were no
11 original orders for Demerol and the medication administration record for the patient was
12 missing from the chart. To carry out his ruse, Respondent dishonestly represented to the
13 physician that the Darvocet N did not relieve the patient's pain.

14 Third Series of Incidents Known to the Board at the Time of Filing of This Accusation

15 K. Commencing about November 29, 1999, and continuing through
16 about August 16, 2000, Respondent was employed as a registered nurse by Mission Bay
17 Hospital, San Diego, California.

18 L. On or about June 8, 2000, while working as a clinical staff nurse
19 on the evening shift at Mission Bay Hospital, respondent had a patient for whom the
20 Physician's Orders authorized administration of Demerol 50 mg every four hours for
21 pain; and administration of 1 or 2 tablets of Vicodin every four hours for *moderate* pain
22 or as needed. Notwithstanding that a second nurse on duty administered Vicodin at 1800
23 hours, Respondent charted administration of Demerol to the same patient at 1945 hours,
24 less than two hours later. At 2400 hours, Respondent charted administration of Demerol
25 to the patient, notwithstanding that a second nurse had given the patient further Vicodin
26 at about 2100 hours. Respondent diverted all or part of the Demerol to his own use.

27 M. During the evening shift of August 4 - 5, 2000, while working as a
28 clinical staff nurse at Mission Bay Hospital, respondent entered the room of a patient at

1 about 0130 hours, sat in a chair near the foot of the bed, and dozed off. When the patient
2 asked Respondent whether he was sleeping, he replied that he was not, and that he was
3 "just really tired right now." At that point, Respondent moved himself to the bed, sat
4 down, and began snoring. When the patient asked Respondent whether he was sleeping,
5 he woke up and replied, "Don't worry, I won't let you die." Respondent was unable to
6 stay awake while in the patient's room.

7 N. During the evening shift of August 4 - 5, Respondent charted the
8 withdrawal of five doses of Demerol 125 mg, (a total of 625 mg) ostensibly for
9 administration to a patient. Respondent charted the administration of four of those doses,
10 and failed to chart the fifth. The Physician's Order authorized the administration of
11 Demerol 125 mg only every 3 hours, and then only for pain. The patient complained she
12 did not receive any relief from the "Demerol" Respondent administered to her that
13 evening. Respondent diverted all or part of the five doses of Demerol to his own use
14 during the nursing shift.

15 O. During the shift of August 4 - 5, Respondent fell asleep at the nurses'
16 station and nearly fell off his chair on several occasions. At the end of the shift,
17 Respondent was shaking with tremors, had trouble concentrating on any thought, and
18 could not articulate the events of his shift. Respondent's eyes were red, his hair
19 uncombed, and his appearance disheveled.

20 O. Respondent illegally obtained and possessed the controlled
21 substance and dangerous drug Demerol over a course of years, in a variety of nursing care
22 responsibilities, in violation of law, as set forth above in Paragraphs 9A through and
23 including 9N.

24 SECOND CAUSE FOR DISCIPLINE

25 (Unlawful Use of a Controlled Substance)

26 10. Respondent is subject to disciplinary action under Code section 2762,
27 subdivision (b), in that he has used a controlled substance as defined in Division 10 of the Health
28 and Safety Code, and a dangerous drug, to an extent or in a manner dangerous or injurious to

1 himself and other persons, and to the public, and to the further extent that such use has impaired
2 his ability to practice nursing safely. The circumstances are as follows:

3 A. Complainant realleges all matters set forth above at Paragraph 9
4 and incorporates the same at this point as though set forth in full.

5 B. The chronic use of Demerol has impaired the nursing judgment
6 and effectiveness of Respondent, and has placed the safety of his patients at risk, in that
7 he has failed to record orders, failed to follow orders, failed faithfully to make honest and
8 complete records pertaining to patient care for use by others attending to critically ill
9 patients, intentionally misrepresented to physicians the pain status of patients, and has
10 generally used his status as a registered nurse to abuse the trust of others as he seeks to
11 satisfy his obsession for Demerol.

12 C. Irrespective of the series of counseling and hospital disciplinary
13 measures taken against him, Respondent continues consistently to abuse the trust of
14 others through the use of his professional status principally to feed his craving for, and to
15 sustain his addiction to, Demerol.

16 THIRD CAUSE FOR DISCIPLINE

17 (Making False, Grossly Incorrect, Grossly Inconsistent Entry in Record)

18 11. Respondent is subject to disciplinary action under Code section 2762,
19 subdivision (e), in that Respondent has falsified, and has made grossly incorrect and grossly
20 inconsistent entries in, patient records pertaining to narcotics. The circumstances are as follows:

21 A. Complainant realleges all matters set forth above at Paragraphs 9
22 and 10, and incorporates the same at this point as though set forth in full.

23 B. Respondent has made false entries indicating the administration of
24 Demerol to the patient, when in fact Respondent has administered the Demerol to
25 himself.

26 C. Respondent has made false physician's orders for Demerol for the
27 purpose of obtaining the drug and administering it to himself.

28 ///

1 D. Respondent has made record entries which showed a lack of
2 consistency between medication ordered, medication withdrawn, and medication given to
3 patients.

4 FOURTH CAUSE FOR DISCIPLINE

5 (Conviction of Offense)

6 12. Respondent is subject to disciplinary action under Code sections 2761,
7 subdivision (f), and 2762, subdivision (c), in that Respondent has been convicted of an offense
8 that is substantially related to the qualifications, functions and duties of a registered nurse, and
9 that involves the prescription, consumption and self-administration of the narcotic Demerol. The
10 circumstances are as follows:

11 A. On or about September 8, 1998, in the matter of *People v. Beyrer*,
12 San Diego Municipal Court Case M756315CF, Respondent pleaded nolo contendere to
13 Counts 1 (Health & Saf. Code, §11173, subd. (a)¹) and 3 (Pen. Code, §471.5²). The
14 Court ordered deferred entry of judgment as to Count 1 for 18 months. Also as to Count
15 1, the Court ordered that administrative review of Respondent's compliance with Penal
16 Code section 1000 be conducted February 10, 2000. The Court granted summary
17 probation as to Count 3, suspended imposition of sentence for three years, and ordered
18 conditions of probation which included one day in custody, fines and penalty assessment
19 of \$800, public service and volunteer work. On or about February 22, 1999, the Court
20 ordered that the Penal Code section 1000 requirement was satisfied. However, as to
21 Count 3 (the violation of Pen. Code, §471.5) the Court ordered Respondent to continue
22 on summary probation as imposed on September 8, 1998. Summary probation will not

23 ///

24 _____
25 ¹. Obtain or attempt to obtain controlled substances, or procure or attempt to procure the
26 administration of or prescription for controlled substances (1) by fraud, deceit, misrepresentation
or subterfuge; or (2) by the concealment of a material fact.

27 ². Alter or modify the medical records of a person, with fraudulent intent, or with
28 fraudulent intent, create a false medical record.

1 be satisfied until three years following said date, or until September 7, 2001, unless
2 otherwise ordered by the Court.

3 B. The facts and circumstances surrounding the conviction alleged
4 above are as alleged in Paragraph 9J of this Accusation.

5 C. The conviction and its underlying facts and circumstances are
6 substantially related to the functions of a registered nurse, in that they demonstrate
7 Respondent unlawfully diverted the controlled substance Demerol from a patient for the
8 purpose of his own use, while present in a health care institution where he was hired to
9 perform professional duties.

10 FIFTH CAUSE FOR DISCIPLINE

11 (Violating a Provision of the Nursing Practice Act)

12 13. Respondent is subject to disciplinary action under Code section 2761,
13 subdivision (d), in that Respondent has violated provisions of the Nursing Practice Act, Code
14 sections 2700 and subsequent. The circumstances are as follows:

15 A. Complainant realleges all matters set forth above at Paragraphs 9,
16 10, 11, and 12, and incorporates the same at this point as though set forth in full.

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein
19 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

20 1. Revoking or suspending Registered Nurse License Number 416207, issued
21 to Robert Norval Beyrer, R.N.;

22 2. Ordering Robert Norval Beyrer, R.N. to pay the Board of Registered
23 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
24 Business and Professions Code section 125.3;

25 ///

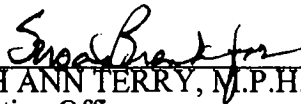
26 ///

27 ///

28 ///

3. Taking such other and further action as deemed necessary and proper.

DATED: 1/5/01



RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

EXHIBIT B

EXHIBIT B
SECRET

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the **Accusation** Against:

ROBERT NORVAL BEYRER, R.N.
10333 Lake Ridge Court
Spring Valley, California 91977

Registered Nurse License No. 416207

Respondent.

Case No. 2001-189

OAH No. L-2001020049

DECISION AND ORDER

The attached Stipulated Surrender of License is hereby adopted by the Board of Registered Nursing of the Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on November 26, 2001.

It is so ORDERED October 26, 2001.

Sandra L. Erickson

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

RECEIVED
SEP 12 2007

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7

8 Attorneys for Complainant

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 **ROBERT NORVAL BEYRER, R.N.**
10333 Lake Ridge Court
15 Spring Valley, California 91977

16 Registered Nurse License No. 416207

17 Respondent.

Case No. 2001-189

OAH No. L-2001020049

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
20 above-entitled proceedings that the following matters are true:

21 PARTIES

22 1. Complainant Ruth Ann Terry, M.P.H., R.N. is the Executive Officer of the
23 Board of Registered Nursing. She brought this action solely in her official capacity and is
24 represented in this matter by Bill Lockyer, Attorney General of the State of California, by M.
25 Gayle Askren, Deputy Attorney General.

26 2. Respondent ROBERT NORVAL BEYRER, R.N. ("Respondent"), is
27 represented in this matter by attorney Samuel Scot Knudsen, Esq., 400 South Melrose Drive,
28 Suite 103, Vista, California 92083.

3. On or about August 31, 1987, the Board of Registered Nursing issued Registered Nurse License Number 416207 to ROBERT NORVAL BEYRER, R.N. ("Respondent"). The Registered Nurse License expired on April 30, 2001.

JURISDICTION

4. Accusation Number 2001-189 was filed before the Board of Registered Nursing of the Department of Consumer Affairs ("Board") and is currently pending against Respondent. The Accusation, together with all other statutorily required documents, was duly served on Respondent, and Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation Number 2001-189 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read and discussed with his counsel the nature of the charges and allegations contained in Accusation Number 2001-189. Respondent also has read and carefully considered the Stipulated Surrender of License and understands the effect it will have on his ability to practice.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation, the right to be represented by counsel, at his own expense, the right to confront and cross-examine the witnesses against him, the right to present evidence and to testify on his own behalf and to the issuance of subpoenas to compel the attendance of witnesses and the production of documents, the right to reconsideration and court review of an adverse decision, and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands that the charges and allegations in the Accusation, if proven at a hearing, constitute cause for imposing discipline upon his Registered Nurse License.

1 9. Respondent does not contest the truth of the facts set forth in Accusation
2 Number 2001-189, does not contest that if proven at hearing these facts constitute grounds for
3 discipline, and hereby surrenders License No. 416207 to the Board for formal acceptance.

4 EFFECT OF SURRENDER

5 10. Respondent understands that by signing this stipulation he enables the
6 Board to issue its order accepting the surrender of his Registered Nurse License without further
7 process.

8 11. Upon acceptance of the stipulation by the Board, Respondent understands
9 that he will no longer be permitted to practice as a Registered Nurse in California and also agrees
10 to surrender and cause to be delivered to the Board both his pocket license and wall certificate
11 before the effective date of the decision.

12 12. Respondent fully understands and agrees that if he ever files an
13 application for relicensure or reinstatement in the State of California, the Board shall treat it as a
14 petition for reinstatement. Respondent must comply with all the laws, regulations and
15 procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all
16 of the charges and allegations contained in Accusation Number 2001-189 and the additional
17 admissions set forth above in Paragraph 9 herein will be deemed to be true, correct, and admitted
18 by Respondent when the Board determines whether to grant or deny the petition. Should
19 respondent ever apply for any other license or certification by any other health care licensing
20 agency in the State of California, all of the charges contained in Accusation No. 2001-189 and all
21 new matters set forth above in Paragraph 9 shall be deemed admitted for the purpose of any
22 Statement of Issues or any other proceeding seeking to deny or restrict such application.

23 13. Respondent fully understands and agrees that he may not petition the
24 Board for reinstatement of the surrendered license for two (2) years from the effective date of the
25 Board's Decision and Order adopting this Stipulated Surrender of License.

26 14. The surrender of Respondent's nursing license and the formal acceptance
27 of the license surrender by the Board constitute the imposition of discipline against Respondent.
28 The instant stipulation shall constitute a record of such discipline and shall become a part of

Respondent's license history with the Board.

15. Respondent understands and agrees that upon reinstatement of the license, he shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$5,700. Respondent shall be permitted to pay these costs in a payment plan approved by the Board.

RESERVATION

16. The admissions made by Respondent herein are only for the purposes of this proceeding or any other proceeding in which the Board of Registered Nursing or other professional licensing agency is involved and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

17. This stipulation shall be subject to the approval of the Board. Respondent understands and agrees that the Board of Registered Nursing's staff and counsel for complainant may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. If the Board fails to adopt this stipulation as its Order, the Stipulation for Surrender of License Order shall be of no force or effect, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action in this matter by virtue of its consideration of this stipulation.

18. The parties agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the original Stipulated Settlement and Disciplinary Order and signatures.

ACCEPTANCE

I, ROBERT NORVAL BEYRER, R.N., have carefully read the above Stipulated Surrender of License and entered into this agreement freely and voluntarily with the advice of counsel, and with full knowledge of its force and effect, do hereby surrender my Registered Nurse License to the Board of Registered Nursing for its formal acceptance. By signing this Stipulated Surrender of License I recognize that upon its formal acceptance by the Board I will lose all rights and privileges to practice as a Registered Nurse in the State of California and I will

EXHIBIT C

2000
10000

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement:

ROBERT B. BEYER

Registered Nurse License No. 416207

Petitioner.

OAH No. N2005010521

DECISION

The attached Proposed Decision of the Board of Registered Nursing is hereby adopted by the Board as its Decision in the above-entitled matter.

This Decision shall become effective on May 28, 2005.

IT IS SO ORDERED this 28th day of April, 2005.

Sandra R. Erickson

President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement of:

ROBERT B. BEYRER

Registered Nurse License No. 416207

Petitioner.

OAH No. N2005010521

DECISION

This matter was heard before a quorum of the Board of Registered Nursing on February 17, 2005, in Berkeley, California. Members present were: Sandra L. Erickson, CRNA, President; LaFrancine Tate, Vice President; Cynthia Johnson, EdD, RN; Isabella I. Casillas; Grace M. Corse, RN; Jill Furillo, RN; Mary C. Hayashi; Carmen Morales-Board, MSN, RN, NP; and Orlando H. Pile, MD.

Mary-Margaret Anderson, Administrative Law Judge, Office of Administrative Hearings, State of California, presided.

Hannah Hirsch Rose, Deputy Attorney General, represented the Department of Justice.

Petitioner Robert B. Beyrer represented himself.

Evidence was received and the matter was submitted. The Board met in closed session and reached a decision. The record closed on February 17, 2005.

FACTUAL FINDINGS

1. On August 31, 1987, the Board of Registered Nursing (Board) issued Registered Nurse License No. 416207 to Robert B. Beyrer (Petitioner).
2. Effective November 26, 2001, Petitioner stipulated to a settlement of a pending accusation that included the surrender of his nursing license. He admitted all of the allegations in the accusation, which included violations of the Nurse Practice Act (Bus. &

Prof. Code § 2762, subd. (a); § 2762, subd. (b); § 2762, subd. (e)) and criminal violations (Health & Saf. Code § 11173 and Pen. Code § 471.5), that took place between 1995 and 2000.

3. From May 1996 until June 1997, while working at Alvarado Hospital in San Diego, Petitioner repeatedly falsified physician's orders and medication records to facilitate obtaining Demerol for his own use. He was observed to be under the influence of drugs on more than one occasion during that time. Petitioner was also found to have diluted Demerol syringes and replaced them in order to obtain Demerol. He was fired from this position.

4. From August until October 1997, Petitioner worked through a nurse registry in San Diego. He was terminated due to alleged Demerol diversion and use of Demerol while employed. Specifically, in September and October, while working at Scripps Memorial Hospital and Scripps Green Hospital, he lied to his superior regarding orders for and the administration of Demerol in order to divert the drug for his own use. On another occasion he falsely and repeatedly reported to a patient's physician that the patient needed additional Demerol in order to obtain the drug for himself.

5. Between November 1999 and August of 2000, Petitioner worked as a nurse at Mission Bay Hospital. He charted the administration of Demerol to a patient, but used it himself instead. On another occasion, Petitioner was unable to stay awake while on duty. He fell asleep once in a patient's room and once at the nurse's station. On that same shift, Petitioner diverted five doses of Demerol from a patient who was complaining of pain and who consequently received no pain medication during that time.

6. Petitioner submitted a very complete packet in support of his efforts towards rehabilitation. He expressed great remorse. Petitioner testified in a forthcoming and convincing manner regarding both his past and his hopes for the future. Although he is interested in the cardiac area, he believes surgery would not be a good choice for him right away. He suggests he might try working in the telephone triage area when he first returns to nursing.

7. On July 23, 2002, Petitioner's criminal record was dismissed pursuant to Penal Code section 1203.4.

8. Petitioner has learned a great deal about addiction and recovery. He has _____ attended regular Narcotics Anonymous/Alcoholics Anonymous meetings; had individual and group therapy; participated in a chemical dependence recovery program at Kaiser Permanente that included "clean" tests throughout; and identified a list of "triggers" to use in self-monitoring.

Petitioner identified March 3, 2003 as his sobriety date. He currently attends a weekly nurse's support meeting and a "speakers" meeting in Old Town San Diego. Petitioner meets occasionally with his sponsor, who provides a great deal of support. He is working "step 8," which involves making amends.

9. Petitioner has worked in various occupations since losing his nursing license. They include truck driver, security guard and salesperson. He has worked as a traffic instructor and has recently become licensed (by the Department of Motor Vehicles) to give "behind the wheel" driving instruction.

LEGAL CONCLUSION

Cause exists to reinstate Petitioner's license based upon the evidence of rehabilitation he presented. Because of concerns regarding his current nursing skills and his commitment to sobriety, a term of probation is necessary. Prior to commencing employment as a nurse, of the term of probation, Petitioner must complete a refresher course in nursing. In addition, he will be required to pay the cost recovery amount previously ordered.

ORDER

The petition of Robert N. Beyrer for reinstatement as a registered nurse is granted. A license shall be issued to Petitioner; however said license shall immediately be revoked, the revocation stayed, and Petitioner placed on probation for three years pursuant to the following terms and conditions:

1. NURSING REFRESHER COURSE

Petitioner, at his own expense, shall enroll in and successfully complete a refresher course or equivalent set of courses as approved by representatives of the Board. Petitioner shall be suspended from practice until the required coursework is successfully completed, but he may use his license for the limited purpose of completing clinical requirements of the required coursework.

2. SEVERABILITY CLAUSE

Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

3. OBEY ALL LAWS

Petitioner shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Petitioner to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Petitioner shall submit

completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

4. COMPLY WITH THE BOARD'S PROBATION PROGRAM

Petitioner shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of Petitioner's compliance with the Board's Probation Program. Petitioner shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

5. REPORT IN PERSON

Petitioner, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

6. RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE

Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Petitioner's probation is tolled, if and when he or she resides outside of California. Petitioner must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Petitioner shall provide a list of all states and territories where he or she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Petitioner shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Petitioner shall inform the Board if he applies for or obtains a new nursing license during the term of probation.

7. SUBMIT WRITTEN REPORTS

Petitioner, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Petitioner's compliance with all the conditions of the Board's Probation Program. Petitioner shall immediately execute all release of information forms as may be required by the Board or its representatives.

Petitioner shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which he has a registered nurse license.

8. FUNCTION AS A REGISTERED NURSE

Petitioner, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Petitioner has not complied with this condition during the probationary term, and Petitioner has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Petitioner's probation period up to one year without further hearing in order to comply with this condition. During the one-year extension, all original conditions of probation shall apply.

9. EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS

Petitioner shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Petitioner shall cause to be submitted to the Board all performance evaluations and other employment-related reports as a registered nurse upon request of the Board.

Petitioner shall provide a copy of this decision to his employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, Petitioner shall notify the Board in writing within seventy-two (72) hours after he obtains any nursing or other health care related employment. Petitioner shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

10. SUPERVISION

Petitioner shall obtain prior approval from the Board regarding Petitioner's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Petitioner shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Petitioner's level of supervision and/or collaboration may include, but is not limited to, the following:

- (a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- (b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Petitioner works.
- (c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Petitioner at least twice during each shift worked.
- (d) Home Health Care - If Petitioner is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Petitioner as required by the Board each work day. Petitioner shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Petitioner with or without Petitioner present.

11. EMPLOYMENT LIMITATIONS

Petitioner shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Petitioner shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits

have been approved by the Board. Petitioner shall not work in any other registered nursing occupation where home visits are required.

Petitioner shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Petitioner from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Petitioner shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Petitioner shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If Petitioner is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

12. COST RECOVERY

Petitioner shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$5,700. Petitioner shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If Petitioner has not complied with this condition during the probationary term, and Petitioner has presented sufficient documentation of his or her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Petitioner's probation period up to one year without further hearing in order to comply with this condition. During the one-year extension, all original conditions of probation will apply.

13. VIOLATION OF PROBATION

If Petitioner violates the conditions of his probation, the Board after giving Petitioner notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of Petitioner's license.

If, during the period of probation, an accusation or petition to revoke probation has been filed against Petitioner's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Petitioner's license, the probationary period shall automatically be extended

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and shall not expire until the accusation or petition has been acted upon by the Board.

14. LICENSE SURRENDER

During Petitioner's term of probation, if he ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Petitioner may surrender his her license to the Board. The Board reserves the right to evaluate Petitioner's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Petitioner will no longer be subject to the conditions of probation.

Surrender of Petitioner's license shall be considered a disciplinary action and shall become a part of Petitioner's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- (1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- (2) One year for a license surrendered for a mental or physical illness.

15. PHYSICAL EXAMINATION

Within 45 days of the effective date of this decision, respondent, at his expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an assessment of the respondent's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If medically determined, a recommended treatment program will be instituted and followed by the respondent with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the Board and respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and shall not resume practice until notified by the Board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required until the Board has notified respondent that a medical determination permits

respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If the respondent fails to have the above assessment submitted to the Board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

16. PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR CHEMICAL DEPENDENCE

Respondent, at his expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider respondent in violation of probation.

Based on Board recommendation, each week respondent shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

17. ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS

Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of respondent's history of substance abuse and will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

18. SUBMIT TO TESTS AND SAMPLES

Respondent, at his expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. The respondent is responsible for keeping the Board informed of respondent's current telephone number at all times.

Respondent shall also ensure that messages may be left at the telephone number when he/she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and the respondent shall be considered in violation of probation.

In addition, respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, the respondent shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

19. MENTAL HEALTH EXAMINATION

The respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine his/her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of the respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the respondent.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified respondent that a mental health determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If the respondent fails to have the above assessment submitted to the Board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

20. THERAPY OR COUNSELING PROGRAM

Respondent, at his expense, shall participate in an on-going counseling program until such time as the Board releases him/her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

21. RESTORATION OF LICENSE

Upon successful completion of probation, Petitioner's license shall be fully restored.

DATED: April 28, 2005

Sandra L. Erickson

SANDRA L. ERICKSON, CRNA
President, Board of Registered Nursing
State of California